

**Detroit Building and Construction Trades Council,
AFL-CIO and Chatham Supermarkets, Inc.**

**Local No. 982, United Brotherhood of Carpenters
and Joiners of America, AFL-CIO and Chat-
ham Supermarkets, Inc.**

**Carpenters District Council of Detroit, Wayne, Oak-
land, Macomb, Sanilac, St. Clair, Monroe
Counties and Portions of Livingston County,
AFL-CIO and Chatham Supermarkets, Inc.**
Cases 7-CC-1151(1), 7-CC-1151(2), and 7-
CC-1151(3)

January 7, 1982

DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND
ZIMMERMAN

On June 12, 1981, Administrative Law Judge Irwin H. Socoloff issued the attached Decision in this proceeding. Thereafter, counsel for Respondents filed exceptions and a supporting brief, the General Counsel filed an exception and a supporting statement and an answering brief to Respondents' exceptions, and the Charging Party filed a brief in support of the Administrative Law Judge's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that Respondent Local No. 982, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, Detroit, Michigan, and Respondent Carpenters District Council of Detroit, Wayne, Oakland, Macomb, Sanilac, St. Clair, Monroe Counties and Portions of Livingston County, AFL-CIO, Detroit, Michigan, their officers, agents, and representatives, shall take the action set forth in the said recommended Order.

DECISION

STATEMENT OF THE CASE

IRWIN H. SOCOLOFF, Administrative Law Judge: Upon charges filed on February 6 and 9, 1981, by Chatham Supermarkets, Inc., against Detroit Building and Construction Trades Council, AFL-CIO, herein also called Building Trades Council; Local No. 982, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, herein also called Local No. 982; Carpenters District Council of Detroit, Wayne, Oakland, Macomb, Sanilac, St. Clair, Monroe Counties and portions of Livingston County, AFL-CIO, herein also called Carpenters District Council; the General Counsel of the National Labor Relations Board, by the Regional Director for Region 7, issued an order consolidating cases, consolidated complaint, and notice of hearing, dated March 3, 1981, alleging violations by Respondents of Section 8(b)(4)(i) and (ii) (B) and Section 2(6) and (7) of the National Labor Relations Act, as amended, herein called the Act. Respondents, by their answers, denied the commission of any unfair labor practices.

Pursuant to notice, a hearing was held before me in Detroit, Michigan, on March 30, 1981, at which all parties were represented by counsel and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence. Thereafter, the parties filed briefs which have been duly considered.

Upon the entire record in this case,¹ and from my observations of the witnesses, I make the following:

FINDINGS OF FACT

I. JURISDICTION

Chatham Supermarkets, Inc., herein also called Chatham, a Michigan Corporation, maintains some stores at various locations in the Michigan counties of Wayne, Oakland, and Macomb (Detroit area), where it is engaged in the retail sale and distribution of food and related products. During the year ending December 31, 1980, a representative period, it derived gross revenues in excess of \$500,000 from the operation of those stores. In that same time period, it purchased and received, at its Michigan stores, goods and materials valued in excess of \$50,000 which were sent directly from points located outside the State of Michigan. I find that Chatham Supermarkets, Inc., is a person and an employer engaged in commerce within the meaning of Section 2(1), (2), (6), and (7) and Section 8(b)(4) of the Act.

¹ At the hearing, I approved, over the objections of the Charging Party, an informal settlement agreement by and between the General Counsel and Respondent Building Trades Council. That agreement provides for a full and complete remedy for all violations alleged in the consolidated complaint against this Respondent. As it has not been shown that Respondent Building Trades Council has demonstrated a proclivity to engage in violations of Sec. 8(b)(4) of the Act, I find no merit in the Charging Party's contention that nothing less than a formal settlement agreement should be approved.

II. LABOR ORGANIZATIONS

Respondent Local No. 982 and Respondent Carpenters District Council are labor organizations within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. Background

On January 19, 1981, Chatham began a construction project at Livonia, Michigan; namely, the conversion of a portion of an existing building into a "Warehouse Ways" store. It engaged Blitzit, Inc., herein also referred to as Blitzit, to perform the carpentry work at this jobsite. Chatham also entered into contract with Sokol Floor Covering, Oakland Service Company, and RFD Electric for performance, respectively, of floor work, plumbing, and electrical work.

In the instant case, the General Counsel contends, and Respondents deny, that, in furtherance of their dispute with Blitzit, whose employees are not represented by Local No. 982, Respondents engaged in certain unlawful secondary activities. Thus, the complaint alleges, and the answers deny, that, on or about January 21, 1981, Respondents, in violation of Section 8(b)(4)(ii)(B) of the Act, threatened to picket at all of the Chatham stores unless Chatham ceased doing business with Blitzit. Also at issue is whether, from February 4 through 11, 1981, Respondents engaged in picketing at the Livonia jobsite, in violation of Section 8(b)(4)(i) and (ii)(B) of the Act.

B. Facts and Conclusions

1. The threat to picket²

John Sedor, Chatham's labor relations manager, testified that, on January 21, 1981, he received a message stating that Local 982 Business Agent Robert Schultz had called regarding the Livonia remodeling project. Sedor returned the call on January 22.³ He was told by Schultz that the contractor at the Livonia jobsite was using nonunion help. Schultz further stated that the Union had had earlier problems with Blitzit and that Chatham "would have pickets at the stores." Sedor contended that Chatham did not have control over the contractor but Schultz replied that, nonetheless, Chatham could put pressure on the owner of the building to "get rid of Blitzit."

Schultz, in his testimony, admitted placing a call to Chatham in late January 1981, and leaving a message. He claimed, however, that he did not receive a return call from a Chatham representative. Based on demeanor impressions, I credit Sedor's testimony over that of Schultz and find that Sedor did, indeed, make a return call and have a conversation with Schultz substantially as he, Sedor, testified. I conclude that, during the course of that telephone conversation, Respondent Local No. 982,

² In reaching the factfindings contained in this section, I have assigned no weight to the testimony of Chatham's construction manager, Alfred Walgenbach, regarding an alleged telephone conversation with the secretary-treasurer of the Carpenters District Council, Ralph Wood. That telephone call has not been properly authenticated.

³ The telephone was answered by a secretary or receptionist of Local 982 who then transferred the call to Schultz.

through its business agent, Schultz, violated Section 8(b)(4)(ii)(B) of the Act by threatening Chatham, a person and an employer with whom it had no dispute, that Respondent Local No. 982 would picket the Chatham stores unless Chatham ceased doing business with Blitzit.

2. The picketing

The parties stipulated that picketing occurred at the Livonia jobsite from February 4 until February 11, 1981. Some of the pickets carried signs readings: "Chatham Unfair. Carpenters District Council." Other signs read: "Blitzit Unfair. Carpenters District Council." In its answer, Respondent Local No. 982 admitted its responsibility for the picketing. At the hearing, it further conceded that its business agents, including Schultz, were present during the course of the picketing. Schultz testified that at least three officials of Respondent Carpenters District Council were also present while said picketing occurred. According to Schultz, the dispute concerned the fact that the Blitzit employees "are not represented by the Carpenters Union." The parties stipulated that Respondents did not have a dispute with an employer at the jobsite other than Blitzit.

In light of the Sedor-Schultz conversation, which occurred shortly before picketing began, and in view of the nature of the picket signs employed by Respondent Local No. 982, there can be little question that this Respondent picketed the jobsite, in furtherance of its dispute with Blitzit, with an object of forcing a neutral employer, Chatham, to cease doing business with Blitzit. Said picketing constituted unlawful restraint and coercion of Chatham and illegal inducement of the employees of neutral employers to refuse to perform services.⁴ Respondent Local No. 982 thus violated Section 8(b)(4)(i) and (ii)(B) of the Act.

3. The responsibility of Respondent Carpenters District Council

I further conclude that Respondent Carpenters District Council is legally responsible for the secondary boycott activities as found, above. Under the constitution and laws of the United Brotherhood of Carpenters and Joiners of America,⁵ when there are two or more local unions located in one city, they must be represented in a district council which has the power to establish and maintain local work and trade rules for the local unions and their members, and to conduct trials of local union members charged with violating the constitution, the district council bylaws or trade laws, or the trade rules of a

⁴ Respondents contend, in their brief, that the stipulated facts do not demonstrate that employees of neutral employers were actually present on the jobsite when picketing occurred. As picketing commenced shortly after construction work began, and continued for a period of 1 week, and as such picketing was, demonstrably, designed to enmesh Chatham in Local 982's effort to force Blitzit and its nonunion employees off the jobsite, I think it reasonable to infer, in the absence of evidence to the contrary, that the employees of neutral employers were at the site when picketing occurred.

⁵ Respondents are affiliated subordinate bodies of that International union.

local union. The bylaws and working rules of Respondent Carpenters District Council, which includes Respondent Local No. 982, empower it to establish uniform dues and initiation fees to be assessed by all local unions within the district. Section 13(d) of the bylaws provides:

The Secretary-Treasurer shall be authorized to furnish credentials to all Business Agents representing the United Brotherhood in this district and shall act as General Agent for the district, having under his direction all Business Agents of the district, whether employed by the Local Unions or this District Council.

Section 26 of the working rules provides:

(A) Those members employed by the organization in the capacity of Business Representatives for a Local Union or District Council must at all times uphold and enforce the Working Rules and By-Laws of this district.

(B) The Business Representative of a Local Union shall immediately report to the Secretary-Treasurer of the District Council his findings relative to the investigation and settlement of any dispute on a job.

(C) Any Business Representative employed by a Local Union shall be responsible to the Secretary-Treasurer of the District Council, who as such, shall be considered the Prime Business Representative of the district.

These provisions establish that Schultz, as business agent of Respondent Local No. 982, was, in handling the Livonia jobsite dispute, acting under the direct supervision and control of Respondent Carpenters District Council.⁶ Moreover, as noted, the pickets patrolling at the site carried signs bearing the legend of that Respondent. Said picketing was observed by officials of Respondent Carpenters District Council who visited the jobsite during the February 4 through 11 period. They took no actions of disavowal. In these circumstances, I find and conclude that Respondent Carpenters District Council is jointly responsible with Respondent Local No. 982 for violations of Section 8(b)(4) of the Act.

IV. THE EFFECTS OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondents set forth in section III, above, occurring in connection with the operations of Chatham Supermarkets, Inc., described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondents have engaged in certain unfair labor practices in violation of Section 8(b)(4) of the Act, I shall recommend that they be ordered to

cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

CONCLUSIONS OF LAW

1. Chatham Supermarkets, Inc., is a person and an employer engaged in commerce within the meaning of Section 2(1), (2), (6), and (7) and Section 8(b)(4) of the Act.

2. Respondent Local No. 982, and Respondent Carpenters District Council, are labor organizations within the meaning of Section 2(5) of the Act.

3. By their threat to picket the Chatham Supermarkets, Inc., stores, unless Chatham ceased doing business with Blitzit, Inc., Respondents have engaged in unfair labor practice conduct within the meaning of Section 8(b)(4)(ii)(B) of the Act.

4. By their picketing activities at Chatham Supermarkets, Inc.'s Livonia, Michigan, construction site, as described hereinabove, Respondents have engaged in unfair labor practice conduct within the meaning of Section 8(b)(4)(i) and (ii)(B) of the Act.

5. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

Upon the foregoing findings of fact, conclusions of law, and the entire record in this case, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER⁷

The Respondent Local No. 982, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, Detroit, Michigan, and Respondent Carpenters District Council of Detroit, Wayne, Oakland, Macomb, Sanilac, St. Clair, Monroe Counties and portions of Livingston County, AFL-CIO, Detroit, Michigan, their officers, agents, and representatives, shall:

1. Cease and desist from:

(a) Engaging in, or inducing or encouraging any individual employed by Chatham Supermarkets, Inc., or any other person engaged in commerce or in an industry affecting commerce to engage in a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities, or to perform any services; or threatening, coercing or restraining Chatham Supermarkets, Inc., or any other person engaged in commerce or in an industry affecting commerce; where in either case an object thereof is to force or require Chatham Supermarkets, Inc., or any other person, to cease doing business with Blitzit, Inc.

2. Take the following affirmative action necessary to effectuate the purposes and policies of the Act:

(a) Post at their offices and meeting halls copies of the applicable attached notices marked "Appendix A" and

⁶ See *United Brotherhood of Carpenters and Joiners of America, AFL-CIO (Endicott Church Furniture, Inc.)*, 125 NLRB 853 (1959).

⁷ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

"Appendix B."⁸ Copies of said notices, on forms provided by the Regional Director for Region 7, after being duly signed by their authorized representatives, shall be posted by Respondents immediately upon receipt thereof, and shall be maintained by them for 60 consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by Respondents to insure that said notices are not altered, defaced, or covered by any other material.

(b) Mail or deliver to the Regional Director for Region 7, signed copies of the said notices for posting by Chatham Supermarkets, Inc., if willing, at all locations where that employer normally posts notices to its employees.

(c) Notify the Regional Director for Region 7, in writing, within 20 days from the date of this Order, what steps Respondents have taken to comply herewith.

⁸ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX A

NOTICE TO MEMBERS POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

WE WILL NOT engage in, or induce or encourage any individual employed by Chatham Supermarkets, Inc., or any other person engaged in commerce or in any industry affecting commerce to engage in a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or

commodities, or to perform any services; or threaten, coerce, or restrain Chatham Supermarkets, Inc., or any other person engaged in commerce or in an industry affecting commerce; where in either case an object thereof is to force or require Chatham Supermarkets, Inc., or any other person, to cease doing business with Blitzit, Inc.

LOCAL NO. 982, UNITED BROTHERHOOD
OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO

APPENDIX B

NOTICE TO MEMBERS POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

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CARPENTERS DISTRICT COUNCIL OF DETROIT, WAYNE, OAKLAND, MACOMB, SANILAC, ST. CLAIR, MONROE COUNTIES AND PORTIONS OF LIVINGSTON COUNTY, AFL-CIO